

Notice of Allowability

Application No.

10/502,538

Applicant(s)

HENNEQUIN, LAURENT
FRANCOIS ANDRE

Examiner

Tamthom N. Truong

Art Unit

1624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 2-12-07.
2. ☒ The allowed claim(s) is/are 25.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date 1/9/06 + 1/17/06
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date attached.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

Allowable Subject Matter

Applicant's amendment of 2-12-07 has been fully considered.

The cancellation of claims 1-24 and 27 has overcome all previous rejections.

Election/Restrictions

Claims 25 and 26 are pending. Said claims were indicated as allowable in the Final Action. However, in view of the new reference, namely, **Mazeas et. al.**, claim 26 is no longer allowable. Said claim does not rely on the reaction condition of claim 25 used to make 5-Br analog, and thus, is independent and distinct from claim 25. Thus, the following restriction is being made:

- I. Claim 25, drawn to the process of making 5-bromo-7-azaindole; classified in class 546, subclass 113.
- II. Claim 26, drawn to the process of making 5-methoxy-7-azaindole; classified in class 546, subclass 113.

Although the two processes are classified in the same class/subclass, they are two distinct processes which require different starting materials, reaction conditions and sequential steps. As evident by **Mazeas et. al.**, the process of claim 26 is rather well known in the art while the process of claim 25 is not.

During the telephone conversation on 4-9-07, Mr. Bird elected group I without traverse.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Don Bird on 4-9-07.

Cancel claim 26.

Reasons for Allowance

The following is an examiner's statement of reasons for allowance:

The multi-step process of claim 25 is not taught or suggested by the art of record or from a search in the pertinent art area. Note, in Mazeas, bromination is performed on azaindole nucleus resulting in polybrominated products. Instant process brominates azaindoline nucleus followed by oxidation of 5-Br product. US'042 (a pregrant publication) found in a recent search describes a similar approach to making instant product. See claims, especially claim 14. Said reference has a too late filing date and is thus not competent

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue

Art Unit: 1624

fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tamthom N. Truong whose telephone number is 571-272-0676. The examiner can normally be reached on M, T and Th (9:00-5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James O. Wilson can be reached on 571-272-0661. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Tamthom N. Truong
Examiner
Art Unit 1624

4-30-07



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